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CONCORD, N.H.

P. Maurice LaFerce, Esq.
Unemployment Compensation Division
34 South Main Street
Concord, New Hampshire

Dear Sir:

You have inquired if legislators whose past work history shows employment at the race track and no other employment whatsoever are eligible for unemployment compensation. In my opinion they are not eligible.

In order to qualify for such benefits they must be available for work. R. L., c. 218, s. 3 (a). In its recent decision, *Barlow v. Biley*, 96 N.H. ___, (dec'd. Dec. 5, 1950), the Supreme Court held that "the purpose of the availability requirement is to test the claimant's attachment to the labor market" and if there is no such market for his services during the hours that he offers them, "he is not genuinely attached to a labor market and is no longer, in fact, available for work in that locality".

Membership in the Legislature does not, by itself, make a person "unavailable". It depends in each instance upon the facts. In these cases, however, race track employment is virtually nonexistent in this locality at this time, and even if it existed, the claimants by their election to the General Court, have so limited their availability, that we would have to conclude, as a matter of law, that they would be unavailable. R. L., c. 171, s. 24.

It is my conclusion that since the claimants are "unavailable" they are ineligible for unemployment compensation benefits.

Very truly yours,

Gordon M. Tiffany
Attorney General

GWT/d